

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 6/14/11 have been fully considered but they are not persuasive.

The applicant argues ***“By contrast, the control circuit (31) disclosed in the Peng reference is merely coupled to keys (36) while outputting signals to an audio transceiver circuit (32), communication interface (33) and game control transceiver circuit (35). Specifically, it is the communication interface (33), rather than the control circuit (31), that communicates with a microphone (342) and speaker (343). Indeed, as shown in Fig. 3 below, the arrows indicate that the control circuit 31 does not process any signals from the microphone (342), noting that such signals are sent to the audio transceiver (32) by way of the communication interface (33). It is therefore clear that, unlike the claimed processing unit, the control circuit (31) from the Peng reference simply does not communicate with or process audio signals. Indeed, the Peng reference as illustrated in Fig. 3 teaches away from such claimed feature in that the microphone (342) is shown coupled to the communication interface (33) and away from the control circuit (31) (see opposite arrows in Fig. 3 of the Peng reference as shown above). A reference should be considered as a whole, and portions arguing against or teaching away from the claimed invention must be considered. See Bausch & Lomb,, Inc. v. Barnes- Hind/Hydrocurve Inc., 796 F.2d 443,230***

**USPQ 416 (Fed. Cir. 1986).** “ See applicant’s remarks, pages 11-12. The examiner respectfully disagrees.

As claimed by applicant, Peng likewise discloses a control circuit 31 (in other words, processor according to claim) is coupled to the wireless audio video transmitter receiver circuit 32 and wireless game control transmitter receiver circuit 35 for processing game and speech signals. The control circuit 31 is coupled to the key 36 and to audio video unit 34 via communication interface 33 therefore, the control circuit processes game and speech signals for controlling data to be transmitted/received through transmitter receiver circuits 32 and 35. Please note, the applicant is not claiming the details of how elements within the terminal are communicating whether directly or indirectly with one another however uses the term "couple to". It is clearly shown that the control circuit (i.e., processor) is coupled to the transmitter receiver circuits 32 and 35 (i.e., transceiver) for processing game and speech signals to be transmitted/received. Therefore, Peng cannot teach away from applicant’s claims as broadly claimed and interpreted by examiner. As stated above, it is clear that the control circuit is coupled to transceiver as shown in Peng. See Figure 3.

Also, according to Peng, paragraph [0013], the wireless audio video transmitter receiver circuit 32, the communication interface 33, and the wireless game control transmitter receiver circuit 35 are respectively connected to the control circuit 31 (i.e., control circuit is coupled to the transceivers) so that the control circuit 31 controls the operation of the wireless audio video transmitter receiver circuit 32, the communication interface 33, and the wireless game control transmitter receiver circuit 35. The control

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circuit 31 controls the wireless game control transmitter receiver circuit 35 to communicate with the wireless terminal device 40 of the game machine main unit 50 for transmitting and receiving game control signals wirelessly. The control circuit 31 also controls the wireless audio video transmitter receiver circuit 32 to communicate with the wireless terminal device 40 of the game machine main unit 50 for transmitting and receiving audio and video signals wirelessly. As noted in the paragraph of Peng, the control circuit 31 controls the operations of the receiver circuits and communication interface therefore it can be concluded that the control circuit processes the captured speech and game data signals for transmitting and receiving.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 15, 16 and 45-49 are rejected under 35 U.S.C. 102(e) as being anticipated by Peng, U.S. Publication No. 2004/0152487.

**Regarding Claim 1**, Peng discloses a mobile terminal (**i.e., wireless game control device 30; see Figure 3**) comprising:

a processor (**i.e., control circuit 31; see Figure 3**) coupled to a transceiver (**as shown in figure 3**) and configured to process a captured speech (**i.e., process speech**

**for transmitting via wireless audio video transmitter receiver circuit 32 as shown in figure 3) and a game data (i.e., process game control signals for transmitting and receiving via wireless game control transmitter receiver circuit 35 as shown in figure 3; see paragraph [0013]), and to support controlling of a game though the game data or captured speech (i.e., the control circuit 31 controls the wireless game control transmitter receiver circuit 35 for transmitting and receiving game control signals and controls the wireless audio video receiver circuit 32 for transmitting and receiving audio signals; see paragraphs [0015] and [0016])** processing, wherein the captured speech is transferred to the another mobile terminal (i.e., **game machine main unit 50; see paragraph [0019])** through a radio connection using the transceiver (**see Figure 3**), and the game data is independent from the captured speech (**as shown in Figure 3 and explained in paragraphs [0013] and [0016], the game signals are transmitted and received via the circuit 35 and the audio signals are transmitted and received via the circuit 32 and the communication interface 33).**

**Regarding Claims 2 and 16,** Peng discloses wherein the method further comprises: determining to transfer the game data as in-band signaling in a speech channel of a radio connection established between the mobile terminal and the another mobile terminal, while the speech channel is transferring the first captured speech, the second captured speech, or a combination thereof. **See paragraph [0016].**

**Regarding Claims 15 and 49,** Peng discloses a method comprising:

determining to capture a first speech at a mobile terminal (**i.e., via the microphone 342 and communication interface 33; see Figure 3**) **Also, see rejection for claim 1 above.;**

determining to transfer the captured speech of the user from the mobile terminal to another mobile terminal (**i.e., the communication interface 33 enables the audio video unit 34 to communicate with the game machine main unit 50 for transmitting audio signals; see paragraphs [0015] and [0016];**

determining to transfer the game data between the mobile terminal and the another mobile terminal (**i.e., the control circuit 31 controls the wireless game control transmitter receiver circuit 35 to communicate with the wireless terminal device 40 of the game machine main unit 50 for transmitting game control signals; see paragraph [0016]**), the game data being independent from the first captured speech (**i.e., as shown in Figure 3 and explained in paragraphs [0013] and [0016], the game signals are transmitted and received via the circuit 35 and the audio signals are transmitted and received via the circuit 32 and the communication interface 33;**

configuring a processor (**in other words, control circuit 31 as shown in figure 3**) in the mobile terminal to process a captured speech and game data (**i.e., processing speech and game control signals for transmitting/receiving via wireless audio video transmitter receiver circuit 32 and wireless game control transmitter receiver circuit 35 as shown in figure 3**), said processor being coupled to a transceiver (**i.e., transmitter receiver circuit 32, 35**) in the mobile terminal (**as shown**

**in figure 3)** for supporting control of a game through the game data or the first captured speech processing (**i.e., the control circuit 31 controls the wireless game control transmitter receiver circuit 35 for transmitting and receiving game control signals and controls the wireless audio video receiver circuit 32 for transmitting and receiving audio signals; see paragraphs [0015] and [0016]);** and

receiving at the mobile terminal a second speech captured by the another mobile terminal (**i.e., the control circuit 31 also controls the wireless audio video receiver circuit 32 to receive audio signals from the wireless terminal device 40 of the game machine main unit 50. The communication interface 33 enables the audio video unit 34 to communicate with the game machine main unit 50 for receiving audio signals; see paragraphs [0015] and [0016]).**

**Regarding Claim 45,** Peng discloses wherein the first captured speech and the second captured speech are transferred without going through a game server (**see Figure 3).**

**Regarding Claim 46,** Peng discloses further comprising: processing the game data and the second captured speech at the mobile terminal; and determining to reproduce at the mobile terminal audio part of the game data and the second captured speech (**see paragraphs [0015] and [0016]).**

**Regarding Claim 47,** Peng discloses wherein the audio part of the game data includes one or more game commands (**see paragraphs [0015] and [0016]).**

**Regarding Claim 48,** Peng discloses wherein the first captured speech is associated with a user of the mobile terminal (**i.e., game control device 30)** and the

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second captured speech is associated with another user of the another mobile terminal (i.e., **game machine main unit 50**) (see paragraphs [0015] and [0016]).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-6, 10-14, 17-20 and 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peng in view of Heden, U.S. Publication No. 2006/0165027.

**Regarding Claims 3 and 17**, Peng discloses the apparatus and method wherein the apparatus is further caused to determine to transfer the captured speech and the game data in a data channel of a radio connection established between the mobile terminal and the another mobile terminal as described above. Peng does not disclose a packet-switched data channel.

In a similar field of endeavor, Heden discloses considering mobile station capability in negotiating quality of service for packet switched services. Heden further discloses a packet-switched data channel. **(see paragraph [0019])**

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Peng with the teachings of Heden to arrive at

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the claimed invention for allowing devices to communicate effectively in a network using packet data.

**Regarding Claims 4 and 18**, Peng discloses the apparatus and method wherein the apparatus is further caused to determine to transfer the first captured speech and the game data in a data channel of a radio connection established between the mobile terminal and the another mobile terminal as described above. Peng does not disclose a circuit-switched data channel.

Heden further discloses a circuit-switched data channel. **(see paragraph [0019])**

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Peng with the teachings of Heden to arrive at the claimed invention for allowing devices to communicate in real time effectively in a network using voice data.

**Regarding Claims 5, 10, 12, 19, 24 and 26**, Peng discloses the apparatus and method wherein the processing unit and the transceiver are further configured to transfer the game data utilizing a signaling resource and gaming specific resource of the radio connection established between the mobile terminal and the another mobile terminal as described above. Peng does not disclose wherein the radio connection comprises a dual transfer mode (DTM) radio connection.

Heden further discloses wherein the radio connection comprises a dual transfer mode (DTM) radio connection **(i.e., the mobile station has the capability to support DTM; see paragraph [0030])**.



At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Peng with the teachings of Heden to arrive at the claimed invention for allowing simultaneous transfer of circuit switched voice and packet switched data over the same radio channel.

**Regarding Claims 6 and 20**, Peng discloses the apparatus and method wherein the game data is transferred as described above. Peng does not disclose utilizing a general packet radio service transparent transport protocol (GTTP).

Heden further discloses utilizing a general packet radio service transparent transport protocol (GTTP). **(see paragraphs [0023] and [0026])**

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Peng with the teachings of Heden to arrive at the claimed invention for allowing the user to continue connection when mobile such that the user is able to concentrate on the task rather than on the technology.

**Regarding Claims 11, 13, 25 and 27**, Peng discloses the apparatus and method wherein the gaming specific resources comprises gaming specific attributes **(i.e., game software)** as described above. Peng does not disclose wherein the signaling resource comprises a packet flow context (PFC) defined for the signaling and wherein the gaming specific resource comprises a packet flow context (PFC) defined by one or more gaming specific quality of service attributes.

Heden further discloses wherein the signaling resource comprises a packet flow context (PFC) defined for the signaling and wherein the gaming specific resource

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comprises a packet flow context (PFC) defined by one or more gaming specific quality of service attributes. **(see paragraph [0031])**

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Peng with the teachings of Heden to arrive at the claimed invention for allowing the sharing of BSS QOS information to be shared among several mobiles for determining load conditions and cell capabilities.

**Regarding Claims 14 and 28**, Peng discloses the apparatus and method wherein the gaming specific resources comprises gaming specific attributes **(i.e., game software)** as described above. Peng does not disclose wherein the gaming specific resource comprises a temporary block flow (TBF) defined by one or more gaming specific quality of service attributes.

Heden further discloses wherein the gaming specific resource comprises a temporary block flow (TBF) defined by one or more gaming specific quality of service attributes. **(see paragraph [0030])**

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Peng with the teachings of Heden to arrive at the claimed invention for allowing the mobile station to assist in cell change for maintaining quality of service.

6. Claims 7-9 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peng and Heden in view of Marejka et al. (Marejka), U.S. Publication No. 2003/0135639.

**Regarding Claims 7 and 21**, Peng and Heden disclose the apparatus and method wherein the processor is further configured to transfer the game data utilizing the GTTP as described above. Peng and Heden do not disclose further configured to check one or more delay requirements of the game data, to determine whether to transfer the game data.

In a similar field of endeavor, Marejka discloses a system monitoring service using throttle mechanisms to manage data loads and timing. Marejka further discloses further configured to check one or more delay requirements (**i.e., delay period**) of the data (**i.e., message**), to determine whether to transfer the game data. (**see paragraphs [0042], [0043] and [0057]**).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Peng and Heden with the teachings of Marejka to arrive at the claimed invention for preventing loss or slowing of data transmissions.

**Regarding Claims 8 and 22**, Peng and Heden disclose the apparatus and method wherein the processor is further configured to transfer the game data utilizing the GTTP as described above. Peng and Heden do not disclose further configured to check a volume of the game data, to determine whether to transfer the game data.

Marejka discloses further discloses further configured to check a volume (**i.e., volume per transmission period**) of the data (**i.e., data message**), to determine whether to transfer the data. (**see paragraphs [0013], [0032] and [0041]**).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Peng and Heden with the teachings of Marejka to arrive at the claimed invention for preventing congestion in data communication networks.

**Regarding Claims 9 and 23**, Peng and Heden disclose the apparatus and method wherein the processor is further configured to transfer the game data utilizing the GTTP as described above. Peng and Heden do not disclose further configured to check a block size of the game data, to determine whether to transfer the game data.

Marejka discloses further configured to check a block size (**i.e., size**) of the data (**i.e., data message**), to determine whether to transfer the data. (**see paragraph [0014]**).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Peng and Heden with the teachings of Marejka to arrive at the claimed invention for preventing congestion in data communication networks.

7. Claims 30, 35 and 39-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peng in view of Heden.

**Regarding Claim 30**, Peng discloses a network element comprising:

a radio transceiver (**i.e., wireless audio video transmitter receiver circuit 32 and wireless game control transmitter receiver circuit 35; see Figure 3**) configured to transfer captured speech and game data in a radio connection (**see rejection for**

**claim 1 above**), the game data being independent from the captured speech (**see rejection for claim 1 above**); and

a processor (**i.e., control circuit 31**) coupled to the radio transceiver (**see Figure 3**), configured to transfer the captured speech and the game data between a mobile terminal and another mobile terminal through the radio connection (**see Figure 3**), wherein the processor is further configured to process captured speech and game data (**i.e., processing speech and game control signals for transmitting/receiving via wireless audio video transmitter receiver circuit 32 and wireless game control transmitter receiver circuit 35 as shown in figure 3**), and support controlling of a game through the game data or captured speech processing (**see rejection for claim 1 above**). Peng fails to disclose a dual transfer mode (DTM) radio connection.

Heden discloses a dual transfer mode (DTM) radio connection (**i.e., the mobile station has the capability to support DTM; see paragraph [0030]**).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Peng with the teachings of Heden to arrive at the claimed invention for allowing simultaneous transfer of circuit switched voice and packet switched data over the same radio channel.

**Regarding Claim 35**, it is interpreted and rejected for similar reasons as set forth in claim 30. In addition, Heden discloses utilizing a general packet radio service transparent transport protocol (GTTP). (**see rejection for claim 6 above**)

**Regarding Claims 39 and 41**, it is interpreted and rejected for similar reasons as set forth in claims 30 and 35. In addition, Heden discloses utilizing a DTM radio connection. **(see rejection for claims 10 and 12 above)**

**Regarding Claims 40 and 42**, it is interpreted and rejected for similar reasons as set forth in claims 39 and 41. In addition, Heden discloses wherein the signaling resource comprises a packet flow context (PFC) defined for the signaling and wherein the specific resource comprises a packet flow context (PFC) defined by one or more specific quality of service attributes. **(see rejection for claims 11 and 13 above)**

**Regarding Claim 43**, it is interpreted and rejected for similar reasons as set forth in claim 41. In addition, Heden discloses wherein the specific resource comprises a temporary block flow (TBF) defined by one or more specific quality of service attributes. **(see rejection for claim 14 above)**

8. Claims 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peng and Heden in view of Marejka.

**Regarding Claim 36**, Peng and Heden disclose the network element wherein the processor is further configured to transfer the game data utilizing the GTTP as described above **(see rejection for claim 7)**. Peng and Heden do not disclose further configured to check one or more delay requirements of the game data, to determine whether to transfer the game data.

Marejka discloses further configured to check one or more delay requirements of the data, to determine whether to transfer the data. **(see rejection for claim 7)**.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Peng and Heden with the teachings of Marejka to arrive at the claimed invention for preventing loss or slowing of data transmissions.

**Regarding Claim 37**, Peng and Heden disclose the network element wherein the processor is further configured to transfer the game data utilizing the GTTP as described above (**see rejection for claim 8**). Peng and Heden do not disclose further configured to check a volume of the game data, to determine whether to transfer the game data.

Marejka discloses further configured to check the volume of the data, to determine whether to transfer the data. (**see rejection for claim 8**).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Peng and Heden with the teachings of Marejka to arrive at the claimed invention for preventing congestion in data communication networks.

**Regarding Claim 38**, Peng and Heden disclose the network element wherein the processor is further configured to transfer the game data utilizing the GTTP as described above (**see rejection for claim 9**). Peng and Heden do not disclose further configured to check a block size of the game data, to determine whether to transfer the game data.

Marejka discloses further configured to check a block size of the data, to determine whether to transfer the data. (**see rejection for claim 9**).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Peng and Heden with the teachings of Marejka to arrive at the claimed invention for preventing congestion in data communication networks.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHANTELL L. HEIBER whose telephone number is (571)272-0886. The examiner can normally be reached on Monday-Friday 9:00am-5:30pm EST.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edouard Patrick can be reached on 571-272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. H./  
Examiner, Art Unit 2617  
August 30, 2011

/Patrick N. Edouard/

Supervisory Patent Examiner, Art Unit 2617